

Appl. No. 10/790,394
Response to Office Action mailed November 16, 2006

Atty Dkr. No. 114951-006

REMARKS

The non-final Office Action was issued on pending claims 1-15 and 23-26, of which claims 1, 2, 6, 8, 9, 13 and 23-26 are under consideration and claims 3-5, 7, 10-12 and 14-15 are withdrawn from consideration. Claims 1, 2, 6, 8, 9, 13 and 23-26 stand rejected. In this Response, claims 1, 8, 24 and 26 have been amended, claims 23 and 25 have been cancelled and no claims have been added. Thus, claims 1-15, 24 and 26 are pending in the application and claims 1, 2, 6, 8, 9, 13, 24 and 26 are under consideration.

Per the Examiner's suggestion during the telephone conversation on February 8, 2007, Applicants request the Examiner to call Applicants' Representative to discuss this application when the Examiner is considering this Response.

Claim Rejections – 35 USC §103(a)

In the Office Action at page 2, claims 1, 6, 8, 13 and 23-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over either Golz (US 5,564,476), Baggetta (US 4,745,883), Gayetty (US 6,739,427), Tracy et al. (US 4,853,275) or O'Dell (US 6,533,066) in view of Driskell et al. (US 2003/0069557 A1). At pages 2 and 3 of the Office Action, claims 2 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over either Golz, Baggetta, Gayetty, Tracy et al. or O'Dell and Driskell et al. and further in view of Piper (US 4,746,769), Chang et al. (6,283,167) or Silverberg (US 6,085,802). Applicants respectfully disagree.

Independent claims 1 and 8 have been amended to clarify the claims. Claim 1 has been amended to include claim 23. Claim 1 has also been amended to call for "wherein the heat shrunken elongation member is elongatable and substantially inelastic." Claim 8 has been amended to include claim 25. Claim 8 has also been amended to call for "the heat-shrunk elongation yarns being elongatable and substantially inelastic." Claims 23 and 25 have been cancelled. Claims 24 and 26 have been amended to be consistent with the amendments to claims 1 and 8 and the cancellation of claims 23 and 25.

Applicants submit the amendments to claims 1 and 8 of the heat shrunken elongation member/yarns being elongatable and substantially inelastic is supported by the application as originally filed. Applicants' invention pertains to shock absorbing lanyards which can stop a

Appl. No. 10/790,394
Response to Office Action mailed November 16, 2006

Atty Dkt. No. 114951-006

person's fall and reduce a shock force felt by the user when the fall is stopped. Furthermore, Applicants' shock absorbing lanyards are used for safety to stop a person's fall and prevent or reduce injury. See the section of Applicants' specification titled BACKGROUND OF THE INVENTION at pages 1-3. One example of suitable materials for Applicants' heat shrunken elongation member/yarns is partially orientated yarns (POY yarns). See Applicants' specification at page 3, lines 11-26 and page 9, lines 15-26. POY yarns are known to have properties of being elongatable and substantially inelastic, that is, stretchable without being recoverable after elongation. In view of Applicants' invention, one of ordinary skill in the art would understand that the heat shrunken elongation member/yarns (such as POY yarns) of the safety lanyard would be elongatable and substantially inelastic. In view of Applicants' invention, one of ordinary skill in the art would understand that the term "elongation" means to elongate or stretch substantially inelastically because it would be undesirable for the elongation member/yarns to be elastic. It would be undesirable for Applicants' shock absorbing lanyards to be elastic and recoverable after stretching because elastic lanyards could be quite dangerous to a user who fell and bounces back upward as if on an elastic bungee cord. For example, it would be dangerous for a worker to fall off of scaffolding and bounce back upward to hit the scaffolding by using a lanyard which is elastic or recoverable after elongation. See Applicants' specification at page 1, lines 15-25. Furthermore, it would be undesirable for Applicants' safety shock absorbing lanyards to be elastic because that might allow the elastic lanyard to be reused after a first elongation, and then the reused lanyard may not adequately stop a person from a second fall. Therefore, Applicants submit the amendments to claims 1 and 8 of the heat shrunken elongation member/yarns being elongatable and substantially inelastic is supported by the application as originally filed.

Turning to the cited references, none of the cited references alone or in combination show, describe or suggest Applicants' invention as claimed in claims 1 and 8.

Golz pertains to an elasticized double wall tubular cord. The Golz elasticized cord 10 has an inner tube 14 having elastic fibers or strands 20 woven into inelastic strands 18. The inner tube 14 is elastically stretchable lengthwise and contracts much like a rubber band. See Golz, column 2, line 58 – column 3, line 8. Furthermore, the Golz elastic strands 20 of the inner tube 14 can be fabricated from a material known in the trade as spandex, which is elastic. See Golz, column 3, lines 9-29. Conversely, Applicants' heat shrunken elongation member is elongatable

Appl. No. 10/790,394
Response to Office Action mailed November 16, 2006

Atty Dkt. No. 114951-006

and substantially inelastic. Even further, nowhere does Golz describe, show or suggest that the inner tube 14 be a substantially inelastic elongation member which is heat shrunken. Conversely, Applicants' substantially inelastic elongation member is heat shrunken.

Baggetta pertains to a tether device which is elastic. Referring to Fig. 1 of Baggetta, the elastic tether device is a unitary stretch member 10 attached to an adult and a child. The stretch member 10 has an elastic inner layer 5 as shown in Fig. 3. See Baggetta at column 2, line 55 – column 3, line 59. Conversely, Applicants' heat shrunken elongation member is elongatable and substantially inelastic. Furthermore, nowhere does Baggetta describe, show or suggest that the elastic inner layer 5 be an elongation member which is substantially inelastic and heat shrunken. Even further, the Baggetta elastic stretch member 10 is not formed substantially simultaneously together as a one-piece webbing. Baggetta at column 4, line 50 – column 5, line 8 describes construction of the stretch member 10. As described in Step 2 the elastic strip (elastic inner layer 5) is made separately from the outer strip of cloth (cloth outer layer 4) and then inserted into the cloth outer layer 4. Conversely, Applicants' claims 1 and 8 call for the tubular-shaped webbing and the heat-shrunk elongation yarns to be formed substantially simultaneously together as a one-piece webbing.

Gayetty, pertains to a safety harness, and thus, does not even pertain to a lanyard. Furthermore, the Gayetty safety harness is not made as a one-piece webbing. Referring to Gayetty at column 2, line 62 – column 3, line 9, a strap for the safety harness is made by providing an outer shell having an inner channel and placing a flexible inner member within the inner channel of the outer shell. Accordingly, the Gayetty safety harness is made with two separate pieces, an inner member and a separate outer shell and subsequently the inner member and the outer shell are assembled together. Conversely, Applicants' invention of claims 1 and 8 provides that the tubular-shaped webbing and heat-shrunken elongation yarns are formed substantially simultaneously together as a one-piece webbing. Even further nowhere does Gayetty describe, show or suggest that the inner member be a substantially inelastic elongation member which is heat shrunken.

Tracy et al. pertains to a cushioned strap. The cushioned strap of Tracey et al. is elastic. Fig. 1 of Tracy et al. shows a strapping 2 knitted or woven from elastomeric yarn. See Tracy et al., column 3, line 60 - column 4, line 13. Fig. 10 of Tracy et al. shows a strapping 20 having

Appl. No. 10/790,394
Response to Office Action mailed November 16, 2006

Atty Dkt. No. 114951-006

elastic braided cords 26. See Tracy et al. column 6, lines 39-45. Furthermore, Tracy et al. does not describe, show or suggest that the cushioned strap has elongation members which are substantially inelastic and heat-shrunken. Conversely, Applicants' claims 1 and 8 have such features.

O'Dell shows and describes a shock absorbing lanyard 20 made to have a structure which does not include heat-shrunk elongation yarns. Referring to column 5, lines 12-47, O'Dell describes adjusting the relative lengths of POY fibers 36 relative to a sheath 22 by withdrawing the POY fibers 36 from the sheath 22 and gathering or overlapping the excess sheath material. Figs. 3, 4, 6, 7, 8, 11, 13 and 15 of O'Dell all shown lanyards having excess sheath material of the outer sheath gathered or overlapped at 42. The overlapped sheath material 42 is secured to the sheath by a rip stitch 40. During use of the O'Dell lanyard, the rip stitch 40 is broken and the overlapped sheath material 42 can unfold and extend and expose indicator flag 48 to signal the lanyard should not be reused. See also O'Dell at column 4, line 66 – column 5, line 6. Applicants submit it would be against the intent of O'Dell of the overlapping excess sheath material secured with a rip stitch by replacing that structure with Applicants' heat shrunken elongation member.

As to Driskell et al., Driskell et al. pertains to an absorbent garment, i.e. a diaper. Initially, Applicants respectfully submit that it would not be obvious to one of ordinary skill in the art of lanyards to look to diapers for modifying lanyards to achieve Applicants' claimed invention. Applicants respectfully submit that it would not be obvious to one of ordinary skill in the art to combine the Driskell et al. diaper with any of Golz, Baggetta, Gayetty, Tracy et al. or O'Dell. However, even if Driskell et al. is properly combinable with any of those references, the combination does not result in Applicants' invention as claimed in claims 1 and 8. Driskell et al. was cited in the Office Action for "elongation members heat-shrunken to enable a stable elastic property." (Emphasis supplied). The Driskell et al. absorbent garment (diaper) shows in Fig. 1 longitudinal strands 44 which are made of an elastomeric material. The elastomeric material is heat-shrinkable, however, when the elastomeric material is shrunk it is relatively stable and elastic. See Driskell et al. at paragraphs [0044] and [0045]. Driskell et al. intends for the heat-shrinkable elastomeric material to remain elastic because the elastomeric material is used to form expandable gathers in side margins 34 and 36 of the absorbent garment. The side margins 34 and 36 are intended to be elastic to encircle legs of a wearer during use. See Driskell et al.

Appl. No. 10/790,394
Response to Office Action mailed November 16, 2006

Atty Dkt. No. 114951-006

paragraph [0041]. Accordingly, Driskell et al. has elastic heat-shrinkable elastomeric strands and not heat-shrunken elongation members which are substantially inelastic as claimed in Applicants' claims 1 and 8. Therefore, even if Driskell et al. is combined with the other cited references, the combinations do not result in the Applicants' claimed invention.

Thus, amended claims 1 and 8 are allowable. The dependent claims are allowable at least for the reasons that their respective independent claims are allowable.

Therefore the §103 rejections on pages 2 and 3 of the Office Action should be withdrawn.

In the Office Action at page 3, claims 1, 6, 8 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over either Golz, Baggetta, Gayetty, Tracy et al. or O'Dell in view of either Kavesh et al. (US 4,897,902) or McCall et al. (US 4,604,315). At page 3 of the Office Action, claims 2 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over either Golz, Baggetta, Gayetty, Tracy et al. or O'Dell and either Kavesh et al. or McCall et al. and further in view of Piper, Chang et al. or Silverberg. Applicants respectfully disagree.

Claim 1 has been emended to include claim 23, and claim 8 has been amended to include claim 25. Claims 23 and 25 were not rejected as being unpatentable over either Golz, Baggetta, Gayetty, Tracy et al. or O'Dell in view of either Kavesh et al. or McCall et al. Also, claims 23 and 25 were not rejected as being unpatentable over either Golz, Baggetta, Gayetty, Tracy et al. or O'Dell and either Kavesh et al. or McCall et al. and further in view of Piper, Chang et al. or Silverberg. Thus, amended claims 1 and 8 are allowable. The dependent claims are allowable at least for the reasons that their respective independent claims are allowable.

Therefore, the §103 rejections on page 3 of the Office Action should be withdrawn.

02/13/2007 15:48 FAX 18472723417

EVEREST IP LAW GROUP

→ USPTO

013/013

Appl. No. 10/790,394
Response to Office Action mailed November 16, 2006

Atty Dkt. No. 114951-006

CONCLUSION

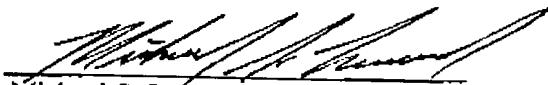
For the foregoing reasons, Applicants submit that the patent application is in condition for allowance and request a Notice of Allowance be issued.

Respectfully submitted,

EVEREST INTELLECTUAL PROPERTY LAW GROUP

Date: February 13, 2007

BY


Michael S. Leonard, Reg. No. 37,557
P.O. Box 708
Northbrook, IL 60065
Phone: (847) 272-3400